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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 CLARENCE JONATHON WOOD,
HEIDI COLLINGWOOD,

14 Plaintiffs,

15 vs.

16 SCOTTSDALE INDEMNITY
17 COMPANY and Does 1 through 100,
inclusive,

18 Defendants.
19

NO. CV 08 3335 SBA

PLAINTIFFS' INDEX OF EXHIBITS IN
SUPPORT OF THEIR OPPOSITION TO
MOTION TO DISMISS COMPLAINT
OF DEFENDANT SCOTTSDALE
INDEMNITY COMPANY

Date: September 23, 2006
Time: 1:00 pm
Ctrm: No. 3, 3rd floor
Judge Hon. Sandra Brown
Armstrong

20 _____ /
21 Plaintiffs Clarence Jonathan Wood and Heidi Collingwood herewith submit the
22 following Index of Exhibits in Support of Their Opposition to Motion to Dismiss Complaint of
23 Defendant Scottsdale Indemnity Co.
24
25
26

1	EXHIBIT #	DESCRIPTION
2		
3	1.	Excerpts of Deposition of Emily Holz.
4		
5	2.	Excerpts of Deposition of Miranda Lindstrom.
6		
7	3.	Excerpts of Deposition of Ralph Lindstrom.
8		
9	4.	Excerpts of Deposition of John Martin Greenlaw.
10		
11	5.	Webster's New World Dictionary, Third College Edition, page 373.

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Declaration of David P. Dibble in Support of Opposition to Motion to Dismiss.

EXHIBIT 1

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

NO. DR 020419

. . .

RECEIVED

JUN 13 2003

HEIDI COLLINGWOOD,

Plaintiff,

LAW OFFICE OF
ZACHARY E. ZWERDLING

vs.

RALPH LINDSTROM, et al.,

Defendants.

_____ /

D E P O S I T I O N

O F

EMILY MARIE HOLZ

. . .

MONDAY, JUNE 2, 2003

. . .

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FITZGERALD DEPOSITIONS
730 Seventh Street, Suite C
Eureka, CA 95501
(707)442-5345

1 A. They didn't have one that fit her.

2 Q. Okay. I thought you indicated earlier that
3 Ralph also said he thought she was experienced enough.

4 A. Yes.

5 Q. Is that right; is that what he said?

6 A. Yes.

7 Q. Okay. What do you remember about the tubes;
8 where -- where did the tubes come from that you ended up
9 going into the river with?

10 A. From the cabin.

11 Q. To your knowledge, did they belong to Ralph?

12 A. Yes.

13 Q. Had you ever tubed on the river with these same
14 tubes before?

15 A. Yes.

16 Q. Okay. Where did Ralph keep them; in a shed, in
17 a garage or something?

18 A. No, just on the side of the cabin on the deck.

19 Q. Okay. You remember how many he had?

20 A. No, but he had -- he had probably about ten.

21 Q. And did you help him in any way either get the
22 tubes ready by blowing them up with air or getting them
23 in the truck or who took care of all that?

24 A. They were already blown up, so we just picked
25 out which one we wanted.

1 Q. You picked out which one you wanted?

2 A. Yes.

3 Q. Okay. And then they were loaded into the
4 pickup; is that right?

5 A. Yes.

6 Q. And the pickup belonged to --

7 A. Ralph.

8 Q. Who loaded them into the pickup?

9 A. Think my mom and my grandpa.

10 Q. Your mom and your grandpa?

11 A. Yes.

12 Q. Okay. You remember how many tubes were put
13 into the pickup?

14 A. Five.

15 Q. Okay. Was there any discussion about the
16 actual tubing itself by the adults? And by that, I mean
17 did they talk about where they were going to go in or
18 what they were going to do on the way, anything of that
19 nature, any type of planning discussion before you left
20 the house?

21 MS. RUDOLPH: I would object. Vague as to
22 "adults."

23 MR. ZWERDLING: Okay.

24 THE WITNESS: They just asked my mom where she
25 wanted to go, and she said she didn't want to go that far

1 ahead of your mom, she got going pretty close behind you.

2 A. Yeah.

3 Q. Was she ever in front of the group as you went
4 down the river or did one person stay in front of the
5 group?

6 A. Well, me mom and my sister floated in front of
7 us right before Kayla and Miranda got on the rock.

8 Q. Okay.

9 A. Right before that.

10 Q. So your mom and your sister, were they in
11 separate tubes?

12 A. Yes, but they were holding on to each other.

13 Q. Okay. And Kayla and Miranda, were they in
14 separate tubes?

15 A. Yeah, but all -- me, Kayla and Miranda were
16 tied together.

17 Q. Okay. So at some point, you untied your tube
18 from their tube?

19 A. Yeah, because it kept turning around and --

20 Q. You kept turning around?

21 A. My tube kept turning this way, and I would be
22 facing backwards and they would be facing forward. So I
23 was just inside my tube and was holding on to their
24 tubes.

25 Q. By using your hand to hold on?

1 A. Yes.

2 Q. Was the temperature of the water colder than
3 other times you've been in there?

4 A. Yes.

5 Q. Was it quite a bit colder?

6 A. Yes.

7 Q. At some point before the accident, did you get
8 out of the tube and just actually swim around in the
9 water?

10 A. No.

11 Q. You stayed in the tube the whole time?

12 A. Yes.

13 Q. At any point do you remember shivering or
14 having that type of reaction to the temperature of the
15 water?

16 A. No.

17 Q. Okay. At what point in the course of the trip
18 did you separate from the other two girls, from Miranda
19 and Kayla; was it early on, halfway, near the end?

20 A. Well, my -- it was after my mom and Jessica
21 went in front of us and my mom -- my mom flipped over on
22 her tube and Jessica fell out of her tube; and so I was
23 holding on to Jessica because she was still in the water.
24 And so then they floated more to the side.

25 Q. What -- did you see how your mom and your

EXHIBIT 2

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

NO. DR020419

. . .

HEIDI COLLINGWOOD,

Plaintiff,

vs.

RALPH LINDSTROM, et al.,

Defendants.

_____ /

D E P O S I T I O N

O F

MIRANDA LINDSTROM

. . .

THURSDAY, DECEMBER 12, 2002

. . .

**CERTIFIED
COPY**

FITZGERALD DEPOSITIONS

730 Seventh Street, Suite C

Eureka, CA 95501

(707)442-5345

1 Q. Okay. As you were going down the river, do you
2 remember the inner tubes getting stuck on a branch on a
3 log?

4 A. Yes.

5 Q. Okay. And you were able to get out of the
6 inner tube -- out of your inner tube; is that right?

7 A. Yes.

8 Q. And were you able to -- you got on a rock? I
9 heard something about a rock in the river and that you
10 were able to stand on the rock.

11 A. (Witness nods head.)

12 Q. Is that right?

13 A. Yes.

14 Q. Okay. Did Kayla get out of her inner tube and
15 stand on the rock with you?

16 A. No.

17 Q. Okay. Did you see her fall out of the inner
18 tube or fall off the inner tube?

19 A. Yes.

20 Q. All right. And she just go right into the
21 water, then, when that happened?

22 A. No, she got tangled in the ropes.

23 Q. Okay. Did she ever get up on the bank, for
24 instance, you know, behind -- on the river I know there's
25 a little cliff there, there's kind of a rock face there.

1 A. Yes.

2 MS. RUDOLPH: Leading.

3 BY MR. ZWERDLING:

4 Q. All right. Did he -- did he do any of the
5 tying? Did he tie any of the tubes together?

6 A. No.

7 Q. Okay. Who did the tying of the tubes?

8 A. Emily and Kim.

9 Q. And Kim?

10 A. (Witness nods head.)

11 Q. Okay. Like, your tube that was tied to Kayla's
12 tube, who did that? Did Kim do that?

13 A. No, Emily did because hers was tied to ours.

14 Q. All three of you were together --

15 A. Yeah, but --

16 Q. -- when you took off?

17 A. But then she untied it and she rowed to her mom
18 because she didn't want to go on the bank.

19 Q. Okay. Was Ralph there? Did he help you? Did
20 he help carry the tubes to the water?

21 A. I don't remember.

22 Q. Okay. Did he get out of the pickup?

23 A. Yeah.

24 Q. All right. And did he come over and say
25 good-bye, wave as you -- when you left, anything like

1 fit you with a life vest that day?

2 A. No.

3 MR. DIBBLE: I don't have anything further.

4 Thank you.

5 MR. GANS: Just one question for you, Miranda.

6 My name's Russ Gans. I'm another attorney here
7 in town. I just have one quick question, and let you go.

8

9

EXAMINATION

10 BY MR. GANS:

11 Q. When you and Kayla heard the rattle-snake sound
12 and got back on your inner tubes could you see Kim at
13 that time?

14 A. No.

15 MR. GANS: Okay. Thank you.

16 MR. ZWERDLING: You going to ask anything?

17 MS. RUDOLPH: No.

18 MR. ZWERDLING: I have one other question. I'm
19 sorry.

20

21

FURTHER EXAMINATION

22 BY MR. ZWERDLING:

23 Q. When you were on the bank how were you -- did
24 you hold the tube with a rope or something? How did you
25 keep the tubes close to you?

1 A. We pulled them on the bank.

2 Q. You had a rope and you were both hanging on to
3 them?

4 A. (Witness nods head.)

5 Q. And you were able to get up on the rock bank
6 there?

7 A. Yeah.

8 Q. And then you pushed them back in the water and
9 got back into them?

10 A. Yes.

11 Q. These pretty big-sized tubes or --

12 A. Yeah.

13 Q. -- were you able, yourself, to lift one of
14 those tubes up by yourself?

15 A. Yeah.

16 MR. ZWERDLING: Okay. That's all.

17 Thank you for coming down today, Miranda. Did
18 a good job.

19 Thanks, Ralph.

20 (Concluded at the hour of 9:26 a.m.)

21 . . .

22

23

24

25

EXHIBIT 3

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF HUMBOLDT

NO. DR 020419

. . .

HEIDI COLLINGWOOD,

Plaintiff, ZWERDLING & CROWLEY

vs.

RALPH LINDSTROM, et al.,

Defendants.

_____ /

D E P O S I T I O N

O F

RALPH LEONARD LINDSTROM, JR.

. . .

TUESDAY, OCTOBER 15, 2002

. . .

**CERTIFIED
COPY**

FITZGERALD DEPOSITIONS
730 Seventh Street, Suite C
Eureka, CA 95501
(707)442-5345

1 So it's just a series of, like, water slides going down
2 and then hits this wider pool area.

3 And I noticed you made note about was the river
4 quieter down by our beach than it was back at the riffle.
5 Yes, it was because it's two hundred feet wide in that
6 area. So it's moving much flatter, moving much slower.

7 Q. My impression from your daughter's testimony
8 was that when she came to the faster water that it was
9 somewhat unusual; it was more speed and she became
10 somewhat alarmed at that moment.

11 Do you know why that particular day it would
12 cause that reaction in her?

13 A. I don't. It's just that it's been years since
14 she did it, and sometimes the very first time you go down
15 it seems a little surprising.

16 Q. Did you do any observation of the river before
17 you dropped the girls off by pulling over on the road or
18 at the airstrip looking at the general conditions on the
19 river that morning?

20 A. After I dropped them off and they went down
21 this embankment and into this kind of a pool area to get
22 onto their tubes and as they started down the river, I
23 drove up a little ways to the edge of the airport just to
24 observe them and the river; and I saw that they had
25 rafted together, they pulled all the tubes together. And

1 so I felt good about that, that -- but I didn't see
2 anything unusual about the river. I mean, it was
3 surprisingly clear and not all that high.

4 Q. Okay. Did you know anything about releases
5 upstream from the dam into the river on or about that
6 date?

7 A. No.

8 Q. Do you know anything about cubic -- whatever
9 the measurement is -- feet per second, flows during that
10 week?

11 A. Well, I understand that part of it; but I
12 didn't hear anything about it.

13 Q. Since the accident, have you done any
14 investigation to determine what the flows were on this
15 day?

16 A. No, I haven't.

17 Q. When you dropped the folks off at the Big Rock
18 area, was there any warning sign on the beach there or
19 any type of warning sign?

20 A. No.

21 Q. Has there been a warning sign there?

22 A. Well, last week when I was up there with the --
23 with Jeff the adjuster, he pointed out there was a little
24 -- there's an eight-and-a-half-by-eleven sheet that's
25 stapled onto this bulletin board; and it'd said "Warning.

1 Q. Is she somebody that you deal with on a regular
2 base?

3 A. Um-hmm.

4 Q. Personally, she's the one you talk to about
5 these things?

6 A. Yes.

7 Q. You were aware of what the concept of excess
8 liability insurance is?

9 A. Um-hmm.

10 Q. You knew that before this accident?

11 A. Right.

12 Q. And you understood it provided you and your
13 family with protection against negligence claims,
14 correct?

15 A. Yes.

16 Q. And that's what you wanted when you asked for
17 it?

18 A. That's right.

19 Q. And you were willing to pay for it?

20 A. Yes.

21 Q. And you paid your premiums on time?

22 A. Yes.

23 Q. As far as you knew, on May 25th your intention
24 and your understanding was that you had insurance
25 coverage up to two million dollars covering accidents

1 arising out at the residence in Willow Creek?

2 A. Can I restate that?

3 Q. Sure.

4 A. The original one-million-dollar policy was
5 placed on my homeowners, which is my home in Eureka; and
6 on Penfold's -- Darlene Penfold's -- recommendation, she
7 felt I should have additional coverage because of the
8 amount of property that we have. So she suggested I take
9 out the umbrella policy that covers all of the
10 properties.

11 Now, I'm not sure that the two-million limit
12 goes onto the rest of the properties; but I know the
13 one-million limit does.

14 Q. The one million is The Hartford and the extra
15 million is The Hartford?

16 A. Correct.

17 Q. So it's your belief that one-point-three
18 million should cover the residence in Willow Creek?

19 A. That's my impression, yes.

20 Q. At the time of this incident, was your daughter
21 receiving any financial support from you?

22 A. No.

23 Q. Was she residing with you in any of your
24 residences --

25 A. No.

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

* * *

RECEIVED

APR 04 2008

CLARENCE JONATHAN WOOD,

Plaintiff,

LAW OFFICE OF
ZWERD ~~...~~ LE, LLP

vs.

No. DR020419

RALPH LINDSTROM, et al.,

Defendants.

-----/

D E P O S I T I O N

OF

JOHN MARTIN GREENLAW

* * *

WEDNESDAY, MARCH 22, 2006

* * *

2:12 P.M.

* * *

MARCIE L. CONN, CSR 11974

CRNICH DEPOSITIONS

626 H STREET, EUREKA, CA. 95501

TELEPHONE 707 443-4876

FAX 707 443 4870

CONFERENCE ROOMS

1 basically the areas that you intend to offer opinion
2 testimony in this matter.

3 A Well, I would offer opinions in broad
4 categories in terms of the usage of tubes on rivers,
5 particularly in this case the Trinity River.

6 Q Okay.

7 A Consideration of safety issues relating to
8 tubing on May 25, 2002, on the Trinity River.

9 The conduct by Kimberly Holz in allowing
10 and escorting the children on the date of the
11 incident from Big Rock to the Lindstroms' property.

12 The conduct of Kayla in terms of her
13 notification to stay on the rock and not come forth
14 from where she was to retrieve the tubes.

15 And the activity itself in terms of going
16 approximately one mile from Big Rock to the
17 Lindstroms' property, which by my review would take
18 approximately twenty or thirty minutes.

19 Q Is that it?

20 A I believe so, in broad categories now.

21 Q Okay.

22 A That's what you asked me.

23 Q Let's talk about Opinion Number 1, usage of
24 tubes on rivers. What opinions do you have in that
25 regard?

1 A Well, in this particular case, like in all
2 cases involving tubing, it's been going on for, I
3 guess, the turn of last century, 1900s, when people
4 were able to take inner tubes and use them in a body
5 of water, whether it's a river or a lake or even in
6 the ocean area in a sheltered position.

7 In this case the inner tubes were 16 inches
8 in diameter, which would make them, I believe, truck
9 tubes. So I believe that they were of adequate
10 size. In addition, the very concept of tubing in
11 itself I do not see as a hazardous activity that
12 would create undue risk to users if the river or
13 other body of water was in a relatively safe
14 condition.

15 Q Okay. And so that would cover your
16 opinions regarding usage of tubes on rivers in
17 general?

18 A Yes.

19 Q Okay. You said that usage of tubes to
20 float on rivers has been going on for how long?

21 A Well, I would say since the invention of
22 the pneumatic tube.

23 Q How long has that been?

24 A Well, I think we had pneumatic tube tires
25 probably since about 1910 on forward, maybe 1920. I

1 know initially we didn't, when the invention of the
2 internal combustion engine for cars --

3 MR. HILL: You said turn of the century. I
4 think you meant not --

5 THE WITNESS: Not this century, but the
6 preceding one.

7 BY MR. DIBBLE:

8 Q 1900s. So people using truck tire inner
9 tubes to float on rivers or bodies of water has been
10 a common occurrence for over a hundred years?

11 A I would say within that reasonable time
12 period.

13 Q Okay. Can we agree that an inner tube,
14 then, would be a watercraft of sorts?

15 A Yes.

16 Q Okay.

17 MR. HILL: Off the record.

18 (There was a discussion off the record.)

19 BY MR. DIBBLE:

20 Q And where did you get the information that
21 these were 16-inch-diameter truck tire tubes?

22 A From the deposition material.

23 Q Do you recall which deposition indicated
24 the size of the truck tires, of the tubes?

25 A I believe Ralph Lindstrom had mentioned it

EXHIBIT 5

Webster's New World Dictionary

Third College Edition

tissue) nonreactive or nonallergic to a substance by removing the antibodies from sensitized cells — *de-sen-si-ti-za-tion* *n.* — *de-sen-si-ti-zer* *n.*

de-sert¹ (di zart') *vt.* [Fr *désert* < LL *desertare* < *desertus*, pp. of *L. deserere*, to desert, lit., to disjoin < *de-*, from + *serere*, to join < IE base **ser-*, to join, place in a row > Gr *eirrein*, to fasten in rows, *L. series*] 1 to forsake (someone or something that one ought not to leave); abandon 2 to leave (one's post, military service, etc.) without permission 3 to fail (someone) when most needed — *vi.* to leave one's post, military duty, etc. without permission and with no intent to return, or, in war, in order to avoid hazardous duty — *SYN.* ABANDON — *de-sert'er* *n.*

de-sert² (dez'ert) *n.* [ME < OFr < LL(Ec) *desertum*, a desert, for *L. deserta* < *desertus*; see prec.] 1 an uncultivated region without inhabitants; wilderness 2 a dry, barren, sandy region, naturally incapable of supporting almost any plant or animal life — *adj.* 1 of a desert or deserts 2 wild and uninhabited [a desert island] — *SYN.* WASTE

de-sert³ (di zart') *n.* [ME & OFr *deserte* < *deservir*; see DESERVE] 1 the fact of deserving reward or punishment 2 [often pl.] deserved reward or punishment [to get one's just deserts] 3 the quality of deserving reward; merit

de-sert-i-fi-ca-tion (di zart'fi ká'shon) *n.* [DESERT² + *-i-* + *-fica-tion*] the change of arable land into a desert either from natural causes or human activity

de-ser-tion (di zart'shon) *n.* [ME *desercioun* < OFr *desertion* < *L. desertio*] 1 a deserting or being deserted 2 Law the willful abandonment of cohabitation with one's spouse or of the duties of parenthood

de-serve (di zurv') *vt.* — *served'*, — *serv'ing* [ME *deserven* < OFr *deservir*, to deserve < *L. deservire*, to serve diligently < *de-*, intens. + *servire*, SERVE] to have a right to because of acts or qualities; be worthy of (reward, punishment, etc.); merit — *vi.* to be worthy

de-served (di zurv'd) *adj.* rightfully earned or merited; just — *de-serv-ed-ly* (-zurv'id lē) *adv.*

de-serv-ing (di zurv'in) *adj.* 1 having merit; worthy of aid, a reward, etc. [a deserving student] 2 worthy (of) [a subject most deserving of attention] — *n.* [Now Rare] desert; merit or demerit

de-se-ver-sky (də sə vēr'skē), Alexander (Pirocoff) 1894-1974; U.S. aeronautical engineer, born in Russia

de-sex (də seks', də-) *vt.* 1 to remove the sex organs of 2 to suppress or lessen the sexual characteristics of

de-sex-u-al-ize (də seks'shō əl'iz', də-) *vt.* — *ized'*, — *iz'ing* DESEX — *de-sex-u-al-i-za-tion* *n.*

de-sha-bille (də'shə bēl') *n.* DISHABILLE

De Silca (də sē'ka; It də sē'kā), Vit-to-rio (vi tōr'ē ō; It vèt tōr'yō) 1901-74; It. motion-picture actor & director

des-ic-cant (də'si kənt) *adj.* [L *desiccans*, prp. of *desiccare*; see fol.] drying — *n.* a substance having a great affinity for water and used as a drying agent

des-ic-cate (də'si kāt') *vt.* — *cat'ed*, — *cat'ing* [L *desiccatus*, pp. of *desiccare*, to dry up completely < *de-*, intens. + *siccare*, to dry < *siccus*, dry < IE base **seikw-*, to drip, pour out > OE *seon*, to trickle, *sic*, small stream] 1 to dry completely 2 to preserve (food) by drying — *vi.* to become completely dry — *des-ic-ca-tion* *n.* — *des-ic-ca-tive* (də'si kāt'iv, də sik'ət'iv) *adj.*, *n.*

des-ic-ca-tor (-ər) *n.* 1 an apparatus for drying foods, etc., esp. by heat 2 a chemist's device containing a water-absorbing material, used to dry or store substances

de-sid-er-ate (di zid'ər āt') *vt.* — *at'ed*, — *at'ing* [L *desideratus*, pp. of *desiderare*; see DESIRE] to feel the lack of and desire for; want; miss; need — *de-sid-er-a-tion* *n.* — *de-sid-er-a-tive* (di zid'ər āt'iv, -ər āt'iv) *adj.*

de-sid-er-a-tum (di zid'ər āt'am) *n.*, *pl.* — *-ta* [L, neut. of *desideratus*; see prec.] something needed and wanted

de-sign (di zin') *vt.* [ME *designen* < *L. designare*, to mark out, define < *de-*, out, from + *signare*, to mark < *signum*, a mark, SIGN] 1 to make preliminary sketches of; sketch a pattern or outline for; plan 2 to plan and carry out, esp. by artistic arrangement or in a skillful way 3 to form (plans, etc.) in the mind; contrive 4 to plan to do; purpose; intend 5 to intend or set apart for some purpose — *vi.* 1 to make designs 2 to make original plans, sketches, patterns, etc.; work as a designer — *n.* [Fr *dessein* < It *disegno* < *designare* < *L. designare*] 1 a plan; scheme; project 2 purpose; intention; aim 3 a thing planned for or outcome aimed at 4 a working out by plan, or development according to a plan [to find a design in history] 5 [pl.] a secret, usually dishonest or selfish scheme: often with *on* or *upon* [to have designs on another's property] 6 a plan or sketch to work from; pattern [a design for a house] 7 the art of making designs or patterns 8 the arrangement of parts, details, form, color, etc. so as to produce a complete and artistic unit; artistic or skillful invention [the design of a rug] 9 a finished artistic work or decoration — *SYN.* INTEND, PLAN — *by design* with deliberate intent; purposely

des-ig-nate (dez'ig nāt'; for *adj.*, — *nit*, — *nāt'*) *adj.* [ME < *L. designatus*, pp. of *designare*; see prec.] named for an office, etc. but not yet in it [ambassador designate] — *vt.* — *nat'ed*, — *nat'ing* 1 to point out; mark out; indicate; specify 2 to refer to by a distinguishing name, title, etc.; name 3 to name for an office or duty; appoint — *des-ig-na-tive* *adj.* — *des-ig-na-tor* *n.*

designated hitter Baseball a player in the regular batting order who does not play a defensive position, but has been designated to bat in place of the pitcher

des-ig-na-tion (dez'ig nā'shon) *n.* [ME *designacioun* < *L. designatio*; see DESIGNATE] 1 a pointing out or marking out; indication 2

a naming or being named for an office, post, or duty 3 a distinguishing name, title, etc.

de-sign-ed-ly (di zī'nid lē) *adv.* by design; purposely

de-sign-ee (dez'ig nē', dez'ig nē') *n.* a person designated

de-sign-er (di zin'ər) *n.* a person who designs; specif., one who makes original sketches, patterns, etc. [a scene designer] — *adj.* designating or of products, esp. fashionable clothing, styled by and often named after a noted designer [designer jeans]

de-sign-ing (di zin'in) *adj.* 1 that designs, or makes plans, patterns, etc. 2 scheming; crafty; artful — *n.* the art or work of creating designs, patterns, etc.

de-sir-able (di zir'ə bəl) *adj.* [ME < OFr; see fol. & -ABLE] 1 worth wanting or having; worthwhile, beneficial, expedient, etc. 2 arousing desire; pleasing, attractive, etc. — *n.* a desirable person or thing — *de-sir-a-bil-ity* or *de-sir-a-ble-ness* *n.* — *de-sir-a-bly* *adv.*

de-sire (di zir') *vt.* — *sired'*, — *sir'ing* [ME *desiren* < OFr *desirer* < *L. desiderare*, orig., prob., to await from the stars < *de-*, from + *sidus*, star; see SIDERAL] 1 to wish or long for; crave; covet 2 to ask for; request 3 to want sexually — *vi.* to have or feel a desire — *n.* 1 a strong wish or craving 2 sexual appetite; lust 3 an asking for something; request 4 a thing or person desired

SYN. — *desire*, generally interchangeable with the other words here in the sense of 'to long for,' stresses intensity or ardor [to desire success]; *wish* is not so strong a term as *desire* and has special application when an unrealizable longing is meant [he wished summer were here]; *want*, specifically suggesting a longing for something lacking or needed, generally is a more informal equivalent of *wish* [she wants, or wishes, to go with us]; *crave* suggests desire to gratify a physical appetite or an urgent need [to crave affection]

de-sir-ous (di zir'əs) *adj.* [ME < OFr *desireus* < LL *desiderosus* < *L. desiderare*; see prec.] desiring; having or characterized by desire

de-sist (di zist', -sist') *vi.* [LME *desisten* < OFr *desister* < *L. desistere* < *de-*, from + *sistere*, to cause to stand < *stare*, to STAND] to cease (from an action); stop; abstain [desist from fighting] — *SYN.* STOP — *de-sist-ance* *n.*

desk (desk) *n.* [ME *deske* < ML *desca*, a table, ult. < *L. discus*; see DISCUS] 1 a kind of table equipped with drawers, compartments, etc., and a flat or sloping top for writing, drawing, or reading 2 a lectern 3 a) the post of a clerk, official, etc. in a department or office b) the place in a hotel where guests are registered, mail is picked up, etc. c) a division of a newspaper office [the city desk] 4 a musician's stand in an orchestra — *adj.* 1 of, for, or on a desk 2 done at a desk [a desk job]

desk-man (-man') *n.*, *pl.* — *men'* a person who works at a desk, esp. one who edits copy in a newspaper office

desk-top (-tāp') *n.* the top, or working surface, of a desk — *adj.* designating or of a piece of equipment, as a microcomputer, designed to be used on a desk or table

des-man (des'man) *n.*, *pl.* — *mans* [L *desman* < *desman* < *desman*, musk + *ratta*, rat] a molelike, aquatic insectivore mammal (family Talpidae) with webbed feet and a long, flexible snout: one species (*Desmana moschata*), trapped for its fur, is found in Russia and the other (*Galemys pyrenaicus*) in the Pyrenees

des-mid (-mid) *n.* [ModL *desmidium*, dim. < Gr *desmos*, a chain; akin to *dein*, to bind; see DIADEM] any of a group of microscopic, freshwater green algae having single cells composed of two identical half-cells with the nucleus located between them

des-moid (-moid') *adj.* [L *desmos* (see prec.) + *-oid*] 1 like a ligament 2 of fibrous texture, as certain tumors

Des Moines (də moin') [Fr, lit., of the monks] 1 river in Iowa, flowing southeast into the Mississippi: c. 325 mi. (523 km) 2 capital of Iowa, in the central part on the Des Moines River: pop. 191,000

Des-mou-lins (də mō lan'), (Lucie Simplice) Ca-mille (Benoît) (kā mē'y') 1760-94; Fr. Revolutionary journalist & pamphleteer

deso-late (des'ə lit; for *v.*, -lat') *adj.* [ME *desolat* < *L. desolatus*, pp. of *desolare*, to leave alone, forsake, strip of inhabitants < *de-*, intens. + *solare*, to make lonely < *solus*, SOLE²] 1 left alone; lonely; solitary 2 uninhabited; deserted 3 made uninhabitable; laid waste; in a ruinous state 4 forlorn; wretched — *vt.* — *lat'ed*, — *lat'ing* [ME *desolaten* < the *adj.*] 1 to make desolate; rid of inhabitants 2 to make uninhabitable; lay waste; devastate 3 to forsake; abandon 4 to make forlorn, wretched, etc. — *des'o-la-ly* *adv.* — *des'o-la-ly-ness* *n.* — *des'o-la-tor* or *des'o-la-tor* *n.*

deso-la-tion (des'ə lā'shon) *n.* [ME *desolacioun* < OFr *desolation* < LL(Ec) *desolatio*] 1 a making desolate; laying waste 2 a desolate condition; ruin; waste 3 lonely grief; misery 4 loneliness 5 a desolate place

de-sorb (də sōrb', də-) *vt.* [DE- + (AB)SORB] to remove (an adsorbed or absorbed material) by a chemical or physical process — *de-sorp-tion* (-sōrp'shon) *n.*

De So-to or de So-to (di sōt'ō), Her-nan-do (hər nan'dō) c. 1500-42; Sp. explorer in America: discovered the Mississippi River (1541)

de-spair (di spēr') *vt.* [ME *despeiren* < OFr *desperer* < *L. desperare*, to be without hope < *de-*, without + *sperare*, to hope < *spes*, hope < IE base **spei-*, to prosper, expand; see SPEED] to lose or give up hope; be without hope: usually with *of* — *vt.* [Archaic] to give up hope of — *n.* 1 a despairing; loss of hope 2 a person or thing despaired of or causing despair

at, āt, ēar, ten, ēve; is, ice; gō, hōrn, look, tōōl; oil, out; up, fēr; ē for unstressed vowels, as in ago, u in focus; * as in Latin (lat'n); chin; she; zh as in azure (azh'ər); thin, the; ŋ as in ring (rip)

In etymologies: * = unattested; < = derived from; > = from which

★ = Americanism

See inside front and back covers

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5
6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA

8 CLARENCE JONATHON WOOD,
9 HEIDI COLLINGWOOD,

10 Plaintiffs,

11 vs.

12 SCOTTSDALE INDEMNITY
COMPANY and Does 1 through 100,
13 inclusive,

14 Defendants.
15 _____/

I, DAVID P. DIBBLE, declare:

16 That I am an attorney at law admitted to practice before all courts of the State of
17 California and the United States District Court for the Northern District of California, and have my
18 offices in Eureka, Humboldt County, California, and am one of the attorneys for the plaintiffs in the
19 within action. That I have personal knowledge of the following facts and if called upon to testify
20 could competently testify thereto.

21 That the Exhibits 1 through 5 attached hereto are true and correct copies of the
22 documents they purport to represent.

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed this 28th day of August, 2008 at Eureka, Humboldt County, California.

25 
26 David P. Dibble, Esq.

PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Humboldt. My business address is 123 F Street, Suite C, Eureka, California 95501. I am over the age of 18 years and not a party to the within cause.

On this date, I served the following documents: *Plaintiffs' Index of Exhibits in Support of their Opposition to Motion to Dismiss Complaint of Defendant Scottsdale Indemnity Company*

☒ **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope, addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

☐ **BY FAX:** By transmitting a true copy thereof from fax telephone number (707) 443-0442 at _____ a.m./p.m. to the person(s) at the fax number(s) indicated below. The transmission was reported as complete and without error, and such transmission report was properly issued by the transmitting fax machine. A true copy of that transmission report is attached to the original proof of service filed herein.

☐ **BY PERSONAL SERVICE:** By placing a true copy thereof enclosed in a sealed envelope, addressed as shown below and delivering same to the individual named below or to that individual in care of a member of his/her office, prior to 5:00 p.m.

☐ **BY OVERNIGHT DELIVERY:** By placing a true copy thereof enclosed in a sealed envelope addressed as shown below and depositing said envelope in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for.

Attorney for Scottsdale Indemnity Company
Linda Wendell Hsu, Esq.
Selman Breitman LLP
33 New Montgomery, Sixth Floor
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 28, 2008 at Eureka, California.


STEPHANIE ESKRA